

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue of: **U.S. PATENT NO. 5,941,551**)
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Inventors: **HARMAN, C. ERIC and**)
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Issued: **AUGUST 24, 1999**)
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For: **EZ HITCH**)

REISSUE DECLARATION

C. ERIC HARMAN and M. TIMOTHY WARREN, applicants for reissue of the above-identified patent, declare and state as follows:

Applicants believe they are the original and first inventors of the subject matter which is claimed and for which a reissue patent is sought on the invention entitled "EZ HITCH," as described in U.S. Patent No. 5,941,551, granted August 24, 1999, and as amended in the Preliminary Amendment filed concurrently with the filing of the application for reissue.

Applicants hereby state that U.S. Patent No. 5,941,551 is not assigned, and no consent of assignee is required.

Applicants hereby state that they have reviewed and understand the contents of the above identified specification, including the claims as amended by the amendments referred to above.

Applicants acknowledge the duty to disclose information which is material to the examination of this application, in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

The Error

Applicants believe the original U.S. Patent No. 5,941,551 may partly inoperative by reason of errors in the claim which could make the claim invalid for

indefiniteness. In addition, Applicants believe the original U.S. Patent No. 5,941,551 to be partly inoperative by reason of patentees claiming less than they had a right to claim in the patent. More particularly, the claim of the '551 patent are insufficient in that the single claim of the patent includes limitations which Applicants believe are not essential to the functioning of the device and which are not necessary to distinguish the invention over the prior art. Specifically, not all of the following limitations need be present in every claim in order to distinguish the invention over the prior art:

- the recitation of the structure to which a locking pin is mounted as being a "housing";
- the recitation of guide walls or flanges converging into the housing;
- the recitation of the housing as being spherical;
- the recitation of the opening in the housing as being circular;
- the recitation of the spherical housing as having an inner surface with the same spherical curvature as the outer surface of the outer ring; and
- the recitation that the means for associating the locking pin with the housing are circular holes.

The errors arose as a result of the lack of familiarity of Applicants with United States patent laws and the failure of Applicants to be represented by a patent attorney or patent agent in their dealings before the United States Patent & Trademark Office. Applicants erroneously believed that by reciting more features in the claims of the patent, more individual features would be covered by the patent, and the broader the patent would be.

Applicants first became aware of the errors enumerated above after issuance of the patent and as a result of negotiations between Applicant Timothy Warren and Advanced Metal Components, Inc., for licensing of the patent. During the course of negotiations patent counsel for Advanced Metal Components conducted a

review of the scope and validity of the '551 patent. During the course of that review, it was determined that certain limitations of the claim were not essential to the functioning of the invention and were not believed necessary to distinguish over the prior art. It was when the results of this patent study were communicated to Mr. Warren by Advanced Metal Components in early December, 1999, and when final results of the patent review were brought to the attention of Mr. Warren by Advanced Metal Components in early January, 2000, that Applicants became aware of the error. Preparation of this application for reissue was initiated promptly thereafter.

The errors identified above arose without any deceptive intention on the part of Applicants.

The Claims as Amended in the Reissue Application

Applicants have described above the particulars in which the claim of U.S. Patent No. 5,941,551 is deficient. The following remarks point out how the new claims recited in the reissue application overcome the enumerated defects.

Claim 1 has been amended to recite that the housing is "hemispherical," rather than "spherical." The shape of the housing is clearly evident from the drawings and specification of the patent, and no new matter is being added. Claim 1 has also been amended to change "guide walls or flanges" to simply "guide walls." While Applicants intend the terms "guide walls" and "flanges" to be synonymous, this amendment avoids any possibly ambiguity that alternative structures are recited.

New independent Claim 2 recites an improved trailer hitching apparatus which does not require the structure to which the locking pin is mounted to be a "housing," which does not require guide walls or flanges, which does not limit the housing to a spherical shape, which does not limit the opening to a circular shape, which does not limit the inner housing as having a curvature matching that of the outer surface of the outer ring, and which does not limit the means by which the locking pin engages

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the housing to circular holes. Each of these features is recited in claims dependent from Claim 2.

More specifically, the term “housing” implies an enclosure of some sort. It is not necessary to the functioning of the device that the coupling device be received within an enclosure. Rather, the essential feature is that there be a structure having opposed walls for mounting the locking pin and between which the inner ring is received so as to limit movement of the inner ring along the locking pin. Thus Claim 2 recites first and second walls in opposed, spaced apart relation, the outer ring of the coupler being configured to be received between the first and second walls, and the locking pin being operatively associated with the first and second walls and configured to be received through the opening in the inner ring to couple the coupler to the towing vehicle. These limitations are inherent in the apparatus described in the specification and depicted in the drawings of the patent, and no new matter is being added.

Claims 3–10 are all dependent, either directly or indirectly, from Claim 2. Claim 3 is dependent from Claim 2 and recites that the device further includes a housing, with the opposed first and second walls being opposed walls of the housing. Claim 4 recites the housing in terms of its function, namely, that it guides the coupler device into a position such that the opening of the inner ring is aligned with the axis of the locking pin. Claim 5 recites that the housing has a curved inner surface, and Claim 6 recites that the outer ring has an outer convex surface with the same general curvature as the curved inner surface of the housing. Claim 7 recited that the housing is substantially hemispherical in shape, and that the opening of the housing is circular. Claim 8 is dependent from Claim 7 and recites that the outer ring has an outer convex surface with the same general curvature as the inner surface of the hemispherical housing.

Claim 9 recites that the housing includes an aperture through which an end of the locking pin is inserted, and that the housing further includes an engagement means situated opposite the aperture for engaging the end of the locking pin. Claim 10 is dependent from Claim 3 and recites a plurality of guide walls operatively associated with the housing and converging rearward toward said opening.

All of the limitations of new Claims 2-10 are explicitly or inherently disclosed in the patent, and no new matter is being added.

Each Applicant declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

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